



23720

PATENT TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

HU YANG
TA YEN CHING
GANGFENG CAI

Serial No.: Unknown

Filed: Concurrently Herewith

For: OXYGEN SCAVENGING POLYMERS AS
ACTIVE BARRIER TIE LAYERS IN
MULTILAYERED STRUCTURES

Group Art Unit: Unknown

Examiner: Unknown

Attorney Docket: 2039.017500/RFE
(09/727110US1)

PETITION UNDER 37 CFR 1.47 REGARDING INVENTOR GANGFENG CAI

MS PATENT APPLICATION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

EXPRESS MAIL MAILING LABEL
NUMBER: EV 291396902 US
DATE OF DEPOSIT: JUNE 27, 2003
I hereby certify that this paper or fee is being deposited with the United States Postal Service with sufficient postage "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to: MS PATENT APPLICATION, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
 Sharon Hart

Sir:

Applicant petitions under 37 CFR 1.47(b) that the PTO accept the inventors' declaration without the signature of Gangfeng Cai, because he could not be reached by applicant or its counsel after diligent effort. To the best of the undersigned's knowledge and belief, the facts are as follows.

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The inventors were employees of Chevron Phillips Chemical Company LP at the time the invention was made. Dr. Cai subsequently terminated his employment with Chevron Phillips Chemical Company LP, and he left no forwarding address with Chevron Phillips Chemical Company LP. However, during the course of prosecution of United States Patent Application Serial Number 09/998,773, filed November 30, 2001, of which Dr. Cai was an inventor, Stephanie A. Wardwell, Ph.D., Reg. No. 48,025, a colleague of the undersigned, concluded that Dr. Cai resided at 2502 Early Bird Lane, Arlington, TX, 76001. A copy of Dr. Wardwell's petition regarding this conclusion is attached hereto. As is stated in Dr. Wardwell's petition in the prior case, Dr. Cai is known as both "Gangfeng Cai" and "Kevin Cai."

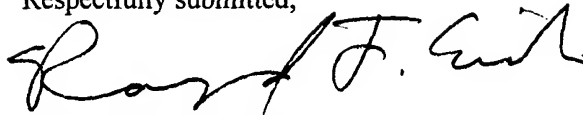
On May 1, 2003, the undersigned forwarded the present specification and a draft declaration to Dr. Cai for his review and signature via an overnight delivery service. According to that service, the documents were delivered on May 5, 2003 to the address discovered by Dr. Wardwell in the previous case, and signed for by a "J. Cai." Dr. Cai did not reply. Therefore, the undersigned sent a second letter to Dr. Cai at the address given above on June 13, 2003 in a further invitation for him to join in the prosecution of this case. The second letter informed Dr. Cai that the other inventors intended to file the present patent application no earlier than June 23, 2003. Dr. Cai has not replied to the second letter either.

Therefore, under 37 CFR 1.47, the other inventors wish to make application for patent on behalf of themselves and Dr. Cai.

Under 37 CFR 1.17(i), a petition fee in the amount of \$130 is due. Please find a check in that amount attached hereto. If the check is inadvertently omitted, or is for an amount less than or greater than the petition fee, or any further fees under 37 C.F.R. 1.16 to 1.21 are required for any reason, the Assistant Commissioner is authorized to deduct any amount due from, or refund

any overcharge to, Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.017500RFE.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Raymund F. Eich". The signature is fluid and cursive, with the first name "Raymund" being more prominent than the last name "Eich".

Raymund F. Eich, Ph.D.
Reg. No. 42,508

AGENT FOR APPLICANTS

WILLIAMS, MORGAN & AMERSON, P.C.
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June 27, 2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Hu Yang, Ta Yen Ching,
Kevin Cai and Lennard Torres

Group Art Unit: 1712

Serial No.: 09/998,773

Examiner: Unknown

Filed: November 30, 2001

Attorney Docket: 2039.010300

For: OXYGEN BARRIER COPOLYMER

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(A)

Assistant Commissioner for Patents
Attn: Office of Petitions
Washington, D.C. 20231

Sir:

Applicant requests reconsideration of the Decision on Petition dated August 26, 2002, in which the PTO dismissed applicant's petition under 37 C.F.R. § 1.47(a). Please charge any required fee to Deposit Account No. 50-0786/2039.010300SAW.

1. This patent application was filed in the USPTO on November 30, 2001, without a declaration by the inventors. The inventors named on the application are Hu Yang, Ta Yen Ching, Kevin Cai, and Lennard Torres. All four inventors were employees of Chevron Phillips Chemical Company LP at the time this invention was made.

2. On January 25, 2002, the PTO mailed a Notice To File Missing Parts Of Non-Provisional Application. This notice set an extendable deadline of March 25, 2002, for filing a declaration executed by the inventors. The undersigned agent for applicant then submitted a declaration to all four inventors to sign. The declaration was returned to the undersigned agent,

at which time it was discovered that the declaration had been executed by inventors Yang and Ching, but inventor Torres had executed the declaration incompletely and inventor Cai had not executed the declaration. The undersigned agent for applicant was notified by Chevron Phillips Chemical Company LP ("CPChem") that inventor Cai had left its employ. The undersigned agent then sent the declaration to inventor Torres to be re-executed. At that time, the undersigned agent was informed by CPChem that inventor Torres had just left its employ. The undersigned agent then attempted several times to contact inventors Cai and Torres at their last known address to have them execute the declaration.

3. The declaration executed by inventors Yang and Ching was filed in the PTO on May 9, 2002, along with a petition for a two month extension of time, and petitions under 37 C.F.R. § 1.47(a) regarding inventors Cai and Torres. A copy of the declaration executed by inventors Yang and Ching is attached as Exhibit A.

4. Applicant's petition under § 1.47(a) was dismissed on August 26, 2002, with leave to refile within two months. After the original petition under § 1.47(a) was dismissed, the undersigned agent made further attempts to locate inventors Cai and Torres, as explained in detail below. These efforts were successful in locating Torres, but there was no response by inventor Cai.

5. Inventor Cai's current employer is unknown, and he left no forwarding address with CPChem. His last known home address is 335 Glasgow Circle, Danville, CA 94526. The undersigned agent sent a letter to Dr. Cai at this address on February 28, 2002, but received no reply. The undersigned agent also attempted to contact Dr. Cai by phone at his last known phone number, 925-362-8884, but the number had been disconnected without directing the caller to a new phone number. The undersigned agent also tried contacting Dr. Cai at a phone number

found in Internet white pages (510-744-0510) for an individual having the same name, but upon contacting this person it was found that he had never worked at CPChem. The undersigned agent also searched white pages using Dr. Cai's alternate first name of Gangfeng, without success.

6. Attached as Exhibits B and C are the results of Internet searches performed on August 30, 2002, to try to find inventor Cai in Yahoo People Search and in AnyWho, respectively. The Yahoo search revealed the phone number (925) 362-8884 in Danville, CA. When the undersigned agent called that number on September 4, 2002, the number had been disconnected without directing the caller to a new phone number. The AnyWho search revealed a Kevin Cai at an address in Fremont, CA, with a phone number of (510) 744-0510. This is the same phone number the undersigned agent had already called. The Kevin Cai living at that address informed the undersigned agent that he is not the same Kevin Cai who previously was employed by CPChem.

7. On September 6, 2002, the undersigned agent sent another letter to inventor Cai at his last known address, by Federal Express. A copy of that letter and the Federal Express label/receipt is attached as Exhibit D. As indicated in the attached exhibit, the letter included a copy of this patent application and the declaration. The letter was delivered to the last known address on September 9, 2002, and on September 12, 2002 the person now living at that address had FedEx retrieve the package containing the documents, and forward the package to 2502 Earlybird Lane Arlington, TX, where it was apparently signed for by C. Gangfeng. [See the attached Exhibit E.] To date, the undersigned agent has not received any documents back from inventor Cai.

8. Attached as Exhibits F and G are the results of Internet searches performed on September 24, 2002 and September 27, 2002 to try to find inventor Kevin Cai in Arlington, TX using Yahoo People Search and AnyWho respectively. The undersigned agent also searched using Dr. Cai's alternate first name of Gangfeng, without success.

9. After the original petition under § 1.47(a) was dismissed, Kenneth D. Goodman, an attorney of record in this application, contacted CPChem to see if it had a more recent forwarding address for inventors Cai or Torres. He was informed by CPChem that it had no more recent address for either inventor.

10. A number of attempts to contact inventor Torres earlier in 2002 were unsuccessful. On September 6, 2002, the undersigned agent sent another letter to inventor Torres at his last known address, by Federal Express. A copy of that letter and the Federal Express label/receipt is attached as Exhibit H. As indicated in the attached exhibit, the letter included a copy of this patent application and the declaration. The executed declaration was recently returned by inventor Torres to the undersigned agent. [See the attached Exhibit I.]

11. Therefore, under 37 C.F.R. § 1.47(a), the other inventors wish to make application for patent on behalf of themselves and Cai. Applicant submits that the facts stated herein and the attached exhibits establish that any perceived deficiencies of the original petition have been remedied, and that applicant has made a diligent effort to locate inventors Cai and Torres, and to get them to sign the declaration.

12. Applicant has already paid the petition fee of \$130 under 37 C.F.R. 1.17(i). If any additional fee is due in connection with this paper, the Assistant Commissioner is authorized to charge it to Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.010300SAW.

13. Applicant believes that no extension of time is required for this Request for Reconsideration. If any extension of time is required, please treat this paper as a request for the necessary extension under 37 C.F.R. §1.136(a), and charge any required fee to Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.010300SAW.

Respectfully submitted,

Stephanie A. Wardwell

Stephanie A. Wardwell
Reg. No. 48,025
AGENT FOR APPLICANTS

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Dated: Oct. 3, 2002